



MIKE PENCE, *Governor*
JAMAL L. SMITH, *Executive Director*

ICRC No.: EMse12061258
[REDACTED]

[REDACTED],
Complainant,

vs.

WALLMAN'S QUALITY FOODS,
Respondent.

NOTICE OF FINDING

The Deputy Director of the Indiana Civil Rights Commission ("Commission"), pursuant to statutory authority and procedural regulations, hereby issues the following findings with respect to the above-referenced case. Probable cause exists to believe that an unlawful discriminatory practice has occurred. 910 IAC 1-3-2(b).

On June 5, 2012 [REDACTED] ("Complainant") filed a Complaint with the Commission against Wallman's Quality Foods ("Respondent") alleging sexual harassment, in violation of the Indiana Civil Rights Law (Ind. Code § 22-9, *et. seq.*) [REDACTED]

[REDACTED] Accordingly, the Commission has jurisdiction over the parties and the subject matter of this Complaint.

An investigation has been completed. Both parties have had an opportunity to submit evidence. Based on the final investigative report and a review of the relevant files and records, the Deputy Director now finds the following:

The issue before the Commission is whether the Complainant was forced to quit her employment with Respondent due to sexual harassment. In order to prevail, Complainant must show that: (1) she experienced sexually offensive comments or actions in the workplace; (2) the comments or actions were severe or pervasive; (3) she made it known that the comments were unwelcome; and (4) Respondent failed to take corrective action to address the harassment resulting in her resignation.

Complainant alleges that shortly after her male Supervisor ([REDACTED]) was hired, he made sexual comments toward her, such as, "I'm going to bend you over and pull your vaginal hairs." Complainant further alleged that [REDACTED] called her a whore, claimed that she and another female co-worker needed to be on a stripper pole, and if he could see her "tits" and she wanted



to see his “dick.” Complainant claims that she expressed her disapproval of such comments. Witness testimony corroborates that [REDACTED] often made such comments to Complainant as well as other female co-workers and that internal reports had been made against him in the past. While Respondent denies Complainant ever complained of sexual harassment, witness testimony shows that Complainant reported the harassment to the business owner’s son ([REDACTED]), but no action was taken to address the issue. Respondent admits that it does not have an anti-harassment policy; rather, it exercises an open door policy with its employees in lieu of a formalized policy. The available evidence shows that there is reason to believe that Complainant was subjected to a sexually hostile work environment that was severe and pervasive enough to make a reasonable person resign their employment. For these reasons, there is probable cause to believe that Respondent has violated the Indiana Civil Rights Laws, as alleged.

Based upon the above findings, probable cause exists to believe that an unlawful discriminatory practice may have occurred. A public hearing is necessary to determine whether a violation of the Indiana Civil Rights Law occurred as alleged herein. Ind. Code § 22-9-1-18, 910 IAC 1-3-5. The parties may agree to have these claims heard in the circuit or superior court in the county in which the alleged discriminatory act occurred. However, both parties must agree to such an election and notify the Commission within twenty (20) days of receipt of this Notice, or the Commission’s Administrative Law Judge will hear this matter. Ind. Code § 22-9-1-16, 910 IAC 1-3-6.

February 26, 2013

Date

Akia A. Haynes

Akia A. Haynes, Esq.

Deputy Director

Indiana Civil Rights Commission